

PROPOSED:
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HIGHER EDUCATION

EDUCATIONAL OPPORTUNITY FUND

Administrative Procedures and Policies

Financial Eligibility

C. Clyde Ferguson Law Scholarship; Martin Luther King Physician-Dentist
Scholarship Program

Proposed Amendments: N.J.A.C. 9A:11-7.1 and 8.1

Authorized By: Educational Opportunity Fund Board of Directors, Anibal Ramos,
Chairperson

Authority: N.J.S.A. 18A:71-40 and 18A:72J

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Proposal Number: PRN 2005 – 87

Submit written comments by May 6, 2005 to:

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The agency proposal follows:

Summary

The Educational Opportunity Fund (EOF) Program provides students from educationally disadvantaged backgrounds with financial aid and support services while enrolled at participating New Jersey colleges and universities. The program is a collaborative effort: the EOF Board of Directors (under the general supervision of the Commission on Higher Education) administers the program, and the participating institutions directly serve the students.

Working with the institutions, the EOF Board maintains a Statewide system to identify and recruit potential college students from backgrounds of historical poverty; develops eligibility criteria for EOF financial assistance based on students' income and their potential for success in college; establishes procedures to determine the amount of the academic year grants according to the total financial need of each student; and advises on the development, organization, and coordination of a wide range of educational support and enrichment activities. The EOF Board's responsibilities include the C. Clyde Ferguson Law Scholarship and Martin Luther King Physician-Dentist Scholarship programs.

The Ferguson Scholarship was established to assist students from economically disadvantaged or minority backgrounds enrolled at the Rutgers University School of Law at Camden, the Rutgers University School of Law at Newark, and the Seton Hall University School of Law. The King Scholarship was established to provide additional grant funds for New Jersey medical and dental students from disadvantaged or minority backgrounds enrolled at the University of Medicine and Dentistry of New Jersey. Recent U.S. Supreme Court cases concerning race-based preferences in higher education hold that restrictions based purely on race or ethnicity are not constitutionally viable. Although membership in a minority group is not an absolute requirement for the Ferguson and King scholarships, the Board proposes amendments to the rules for these programs (codified at N.J.A.C. 9A:11-7 and 8, respectively).

Both programs' current eligibility requirements include a component related to a student's background, at N.J.A.C. 9A:11-7.1(a)2 and 8.1(a)2, respectively, and meeting any one of three criteria satisfies that component. The Board proposes to remove minority group membership from the current student background criteria and to add a list of characteristics exemplifying a background of disadvantage. (The proposed new language replicates a portion of the student eligibility requirements for undergraduate EOF grants (N.J.A.C. 9A:11-2.2(b)). For the King scholarship at current N.J.A.C. 9A:11-8.1(b), removal of a provision that gives priority to students meeting multiple criteria is also proposed.

This rulemaking is excepted from the required rulemaking calendar (N.J.A.C. 1:30-3.1) because a comment period of at least 60 days is provided (N.J.A.C. 1:30-3.3(a)5).

Social Impact

The Ferguson and King statutes (N.J.S.A. 18A:71-40.1 et seq. and 18A:72J-1 et seq.) condition student eligibility on either a background of disadvantage or membership in a minority group that has been historically disadvantaged in obtaining access to educational opportunities in the legal and medical professions. The proposed amendments continue to support and stress the goal of assisting disadvantaged students who wish to pursue careers in law and medicine. The proposed new language describing a disadvantaged background is race-neutral and consistent with that used to determine eligibility for the Federal TRIO programs and for the Educational Opportunity Fund. The fund is a successful model for providing postsecondary access and opportunity for a broad range of disadvantaged students in New Jersey, including minorities. Almost 50 percent of the students currently receiving Ferguson and King scholarships received EOF grants as undergraduate or graduate students.

Economic Impact

State appropriations provide funds for the Ferguson and King Scholarships. The proposed amendments have no direct impact on the total number of students awarded scholarships or the total cost of the program, because the maximum numbers of scholarships are limited by the size of the annual State appropriation for each programs. The Fiscal Year (FY) 2005 appropriation for C. Clyde Ferguson Law Scholarships is \$200,000. The statute permits basing the maximum amount of the scholarship on tuition, fees, and board at Rutgers University School of Law at Newark; these costs will average \$25,662 for academic year 2004-05. The Ferguson appropriation has not been increased since the scholarship's inception in 1989 and does not meet current tuition costs. The FY 2005 appropriation for Martin Luther King Physician-Dentist Scholarships is \$602,000. The statute authorizes grants up to the cost of tuition, which currently averages \$20,567 at the medical schools. The appropriation for the King scholarship has remained level since FY 1992.

Federal Standards Statement

The proposed amendments are not subject to a Federal standards analysis under Executive Order No. 27 (1994) because EOF was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirement or standards.

Jobs Impact

The proposed amendments will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments pertain strictly to specified public and publicly funded independent colleges and universities in New Jersey, none of which qualifies as a small business because all have at least 100 full-time employees, and to the students participating in the C. Clyde Ferguson Law Scholarship and Martin Luther King Physician-Dentist Scholarship programs. .

Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 7. C. CLYDE FERGUSON LAW SCHOLARSHIP

9A:11-7.1 Student eligibility

(a) To be eligible for a C. Clyde Ferguson Law Scholarship (Ferguson Scholarship), a student shall demonstrate that he or she:

1. (No change.)
 2. [Is a student who meets the requirements of N.J.A.C. 9A:11-2.4 or falls within one of the following categories:] Is from a disadvantaged background, as demonstrated by inclusion in at least one of the following categories:
 - i. [A minority or disadvantaged student who is traditionally underrepresented in the law profession and has demonstrated financial need;] Meets the requirements of N.J.A.C. 9A:11-2.4;
 - ii. [A] Is a former or current recipient of the New Jersey EOF Article III undergraduate or graduate grant;
 - iii. [A] Is a student who would have been eligible as an undergraduate for a New Jersey EOF Article III student grant; [and] or
 - iv. Is a first-generation college student whose immediate family is or was eligible for government assistance and/or educational programs targeted toward low-income and disadvantaged populations (TRIO programs, NJ GEAR UP, free and reduced breakfast/lunch programs, food stamps, or at least one year of Pell grants); and
 3. (No change.)
- (b) (No change.)

SUBCHAPTER 8. MARTIN LUTHER KING PHYSICIAN-DENTIST SCHOLARSHIP PROGRAM

9A:11-8.1 Student eligibility

(a) To be eligible for a Martin Luther King Physician-Dentist Scholarship (King Scholarship), a student shall demonstrate that he or she:

1. (No change.)
2. [Is a student who meets the requirements of N.J.A.C. 9A:11-2.4 and falls within one of the following categories:] Is from a disadvantaged background, as demonstrated by inclusion in at least one of the following categories:

i. [A minority student included in one of the ethnic groups recognized by the Association of American Medical Colleges or the American Dental Education Association as underrepresented in the medical or dental professions;] Meets the requirements of N.J.A.C. 9A:11-2.4;

ii. [A] Is a former or current recipient of the New Jersey EOF Article III undergraduate or graduate grant; [or]

iii. [A] Is a student who would have been eligible as an undergraduate for a New Jersey EOF Article III student grant; [and] or

iv. Is a first-generation college student whose immediate family is or was eligible for government assistance and/or educational programs targeted toward low income and disadvantaged populations (TRIO programs, NJ GEAR UP, free and reduced breakfast/lunch programs, food stamps, or at least one year of Pell grants); and

3. (No change.)

[(b) Priority shall be given to those students who meet two or more of the criteria in (a)2 above.]

[(c)] (b) (No change in text.)